DOCUMENT RESUME

ED 177 445 CG 013 883

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TITLE A Handbook for Juveniles and Parents on Maine's Juvenile Justice System.
INSTITUTION Maine Univ., Oronc. Coll. of Education.
SPONS AGENCY Office of Education (DHEW), Washington, D.C.
BUREAU NO 489AH70024
PUB DATE 2 Feb 79
NOTE 45p.; Charts may not reproduce clearly

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *Child Advocacy; *Juvenile Courts; *Parent Child Relationship; *Professional Personnel; *State Legislation; State Programs; Youth
IDENTIFIERS *Maine

ABSTRACT

This guide explains Maine's juvenile justice system so that juveniles and/or their parents can know what to expect or what to do in a situation involving juveniles, public officials and the law. Although it is geographically specific, it could serve as a model to other states. The booklet can serve as a checklist to make sure law enforcement officers, intake workers, attorneys, judges and other public officials are doing what is legally required of them. The sections focus on: (1) the people and terms which make up the juvenile justice system; (2) how these people work together; (3) a checklist of Constitutional and other rights of the juvenile and parent; and (4) special cases. (Author/BMW)

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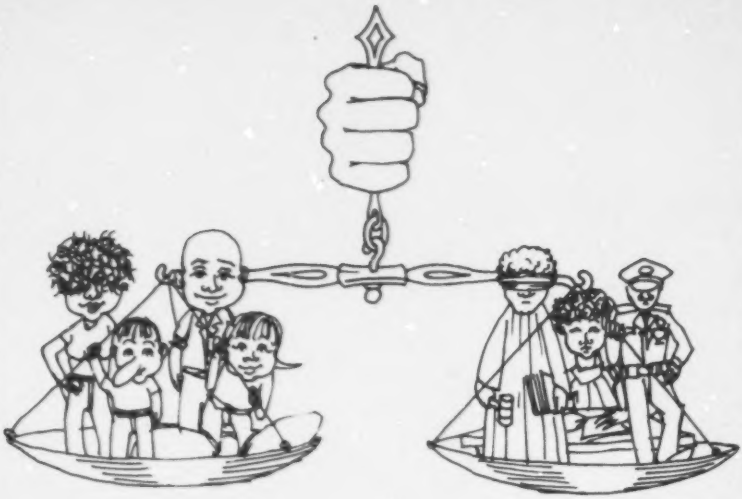

A Handbook for Juveniles and Parents on Maine's Juvenile Justice System

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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Foreword

The Maine Juvenile Code became effective on July 1, 1978. The intent of the Code is to provide a more effective way to fairly deal with juveniles, who are involved in juvenile offenses or who are runaways. The Code provides a way to screen out of the court system juveniles, who have committed minor offenses or who are first time offenders.

The Code also addresses itself to juvenile court proceedings, emancipation procedure (to be responsible for one's own care and behavior), appeal procedures, sentencing alternatives, departmental responsibilities, ongoing evaluation, the role of the intake worker, and several other areas.

The UMO Teacher Corps Youth Advocacy Project has been involved in working with teachers, community agencies, parents and juveniles to enable them to increase their understanding of the Juvenile Justice System. This booklet is intended to provide helpful information on the Juvenile Code to the people that will be most directly affected by the implementation of the Code.

Irene Mehnert, Ed. D.
Director, University of
Maine/Orono Teacher Corps

Acknowledgments

In the process of researching and writing this booklet with the aid of the University of Maine at Orono/Old Town Teacher Corps Project, I talked to many people who are involved at the grass roots of Maine's juvenile justice system. Most of the people I talked to are involved with juveniles in the Bangor area and to mention some of them individually would be to slight others, for *everyone* I talked to was open and helpful in his or her own way. These people know who they are, and the Teacher Corps staff and I thank them for helping make this booklet possible.

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I. Introduction

The purpose of this booklet is to describe as plainly as possible Maine's Juvenile justice system so that *you*, as a juvenile or a parent of one, can know what to expect, and perhaps even what to do in a situation which involves you, public officials and the law. Although this booklet is *not* a how-to-do-it-yourself guide in defending a juvenile, it can serve as a checklist for you to make sure that law enforcement officers, intake workers, attorneys, judges and other public officials are living up to what is required of them by the Maine Juvenile Code and other Maine laws. The focus of the booklet will be the criminal aspects of Maine's juvenile justice system, but attention will also be given to laws which deal with situations involving juveniles that are not criminal in nature. This will be done near the end of the booklet.

The legislature by statute and the courts by interpretation frequently change the law, and the information contained in this booklet is always subject to such modification.

II. Who and what are the people and terms that make up Maine's Juvenile Justice System?

Let's begin by getting acquainted with some of the people and terms involved in the juvenile system. By giving you a brief description of the roles which these people and terms play, it will be easier for you to see how they work together to form Maine's juvenile justice system.

A. PEOPLE

1. **Juvenile** - As defined by the Maine Juvenile Code, this term refers to any person under the age of 18.[1] If a person is under 18 and is charged with a juvenile crime (a term to be explained later), then he/she must be tried in juvenile court, unless the

court finds good reasons why he/she should be tried as an adult. If a person were under 18 at the time the alleged crime was committed, that person may still be tried as a juvenile even if he/she is 18 or older at the time of trial.[2]

2. **Parent(s)** - As defined by the Maine Juvenile Code, this term refers to both natural and adoptive parent(s), and usually includes legal guardian.[3] Parent(s) have many of the same legal rights — and sometimes more — than a child has. These rights are listed later in the booklet.
3. **Law Enforcement Officer** - Usually this is the first person a juvenile comes into contact with after an alleged wrongdoing. The law enforcement officer plays a very important role for the officer makes the first decision of whether to let the juvenile go with a warning, or to take the juvenile to the station. If the juvenile is brought to the station, then this is where the decision is made as to whether or not law enforcement officers want the juvenile's case to go to court. Even if they want the case to go to court, this does *not* mean that it will.[4]
4. **Juvenile Aid Officer** - Not every police department has such an officer, but in those which do, this person handles all of the juvenile cases in that particular police department. The juvenile aid officer is usually the one who decided whether or not the police want the case to go to court. This officer makes the decision by looking at the juvenile's previous record, by considering the reason for which the juvenile is presently before him/her, and by talking to the juvenile and his/her parent(s). The juvenile aid officer may ask the juvenile if he/she would be willing to do some sort of voluntary work as a way to resolve the case. Once the juvenile aid officer decides that the police want the juvenile's case to go to court, or want the juvenile to be detained, then the intake worker is notified because the intake worker must make these decisions.[5]
5. **Intake Worker** - The position of intake worker is created under the Maine Juvenile Code. The intake worker is not a probation officer or a police officer, but is notified by the police or another law enforcement agency whenever they want to detain a juvenile after arrest, or to send a juvenile's case to court.

   The intake worker is like a middle man between the police and the juvenile court. When a juvenile has been referred to the intake worker by the police, or another law enforcement agency, the intake worker has four options:

   a. decide that *no* further action in the case is required in the interest of the juvenile and the community;
   b. refer the juvenile for voluntary counseling or other social services without sending the case to court;

c. make an *informal adjustment* without sending the case to court (the nature of an *informal adjustment* is explained later in the booklet);

d. request the district attorney to take the case to court.[6]

It should be noted that the district attorney always has the option of bringing a juvenile's case to court or dismissing it even if the intake worker does not want to do so.[7]

One other thing to note is that the intake worker is involved in any case in which a juvenile is taken into interim care.[8]

6. **District Attorney** - This is the person who makes the final decision as to whether or not the juvenile's case will go to court. If the intake worker does not request the district attorney to take the case to court, then the complainant, the police officer and the victim involved in the case must be told of this. Any of these people can ask the district attorney to review the intake worker's decision. The district attorneys may, after receiving one of these requests for review, on their own motion, file a petition in the case.[9] Even if the intake worker wants a particular case to go to court, the district attorney may dismiss the petition, if he/she does not think the case should go to court. Once the district attorney has made the decision to prosecute the juvenile, then the case is out of the intake worker's hands and the district attorney's office handles the case in court.

7. **Victim** - If there has been a victim in a juvenile's alleged crime, then the intake worker must notify this person if the decision is made not to send the case to court. The intake worker must also tell the victim the reasons for this decision.

   As mentioned earlier, the victim always has the option of asking the district attorney to review the intake worker's decision, and to take the case to court.

8. **Defense Attorney** - If the parent(s) cannot afford an attorney for their child, then the court will appoint one free of charge.[10] An attorney should usually be obtained for a juvenile whenever the case goes to court.

9. **Judge** - In hearing the juvenile's case, this person has many options at the various stages of the case. The judge makes the final decision as to whether or not the juvenile will be detained in a secure facility before trial;[11] whether or not the juvenile will be tried as an adult;[12] whether or not the juvenile committed the crime he/she is charged with;[13] and, finally, the judge decides what will happen to the juvenile if the juvenile is found to have committed the crime he/she is charged with.[14] Some of the factors which a judge will consider at the various stages in a case will be talked about later in describing the different types of hearings.

10. **Probation Officer** - This person may come into the picture only if the juvenile has been found by the judge to have committed a juvenile crime. After the judge puts a juvenile on probation, the probation officer immediately interviews the juvenile and gives the juvenile a written statement of the terms of probation.[15] The officer must explain these terms and conditions fully to the juvenile. The probation officer with the approval of the Department of Mental Health and Corrections may enter into agreements with social service agencies to provide supervision or services for a juvenile who has been placed on probation.[16] A probation officer also has the power to arrest a juvenile, who is under his/her supervision, for a violation of probation.[17]

B. TERMS

1. **Juvenile Crime** - A juvenile may be tried in juvenile court only for juvenile crimes, therefore, it is useful to know what the term includes. First, it includes any conduct which is not criminal for an adult, such as the illegal possession or purchase of intoxicating liquor or the possession of a useable amount of marijuana. Finally, operation of an automobile, a snowmobile or a motor boat by a juvenile while under the influence of alcohol or drugs is also a juvenile crime.[18]

   It should be noted that a juvenile cannot be sent to the Maine Youth Center for possession of a useable amount of marijuana or for possession of intoxicating liquor.[19] But, if a juvenile violates probation or refuses to pay a fine which results from being found to have committed either of these two juvenile crimes, then the juvenile can be sent to the Maine Youth Center.[20]

2. **Informal Adjustment** - An informal adjustment is one of the four options an intake worker has in handling a juvenile's case which has been referred to the court by the police or another law enforcement agency. The other three options are described under the *intake worker* section earlier in the booklet.

   The term informal adjustment refers to a voluntary agreement between an intake worker and a juvenile in which the intake worker, with input from the juvenile, designs conditions which will best serve the needs of the juvenile and the community. Conditions may range from restitution to foster home placement. The scope of an informal adjustment, which can last no longer than six months, is limited only by the ingenuity the intake worker shows in deciding the best way to "adjust" a juvenile's case without sending it to court.[21]

   An informal adjustment *cannot* be set up *unless:* a) the juvenile and the juvenile's parent(s) have been advised of their

constitutional rights, including their right to a trial and an attorney; b) the facts of the juvenile's case establish first-hand evidence that the juvenile committed a juvenile crime; c) the parent(s) of the juvenile consent in writing to the informal adjustment; and, d) the juvenile, within the previous year, has not been found to have committed a juvenile crime or has not entered into another informal adjustment.[22]

An intake worker may terminate a juvenile's informal adjustment, and send the case to the district attorney for court proceedings, whenever: the juvenile violates the terms of the informal adjustment; the intake worker becomes aware of new evidence in the juvenile's case which would have prevented the informal adjustment; or, the district attorney wants the juvenile's case to go to court.

3. **Summons and Petition** - A summons is the notice which is served upon the juvenile and the juvenile's parent(s) to inform them of the charges against the juvenile. It includes the time and place of the hearing on these charges. A summons also states the constitutional rights of the juvenile, including the right to have an attorney at the hearing and the right to have one appointed free of charge if they cannot afford one.[23]

   The court issues a summons after it receives a petition. A petition is a sworn statement signed by the complainant, usually a police officer, naming the offense with which the juvenile is charged. The summons contains basically the same facts which are alleged in the petition and it should have a copy of the petition attached to it.[24]

   The summons must be served on the juvenile and parent(s) at least two days before the court hearing unless they waive this service. Regardless of waiver, copies of the summons and petition must be given to the juvenile and his/her parent(s) when they appear in court or request them.[25]

4. **Juvenile Court** - The Maine District Court is known as the juvenile court when it hears a case in which a juvenile is charged with a juvenile crime.

   The juvenile court must hear all cases in which juveniles are charged with juvenile crimes unless the alleged crime is so serious in a particular case that the juvenile court determines the juvenile should be tried as an adult.[26] The procedure which enables the prosecution to try a juvenile as an adult will be explained in detail later.

   Let's take a look at the different types of hearings that a juvenile may face before the juvenile court. All of these hearings must be held separately from one another, but one hearing may begin immediately after another one has ended.

a. ***Detention Hearing*** - Although every arrested juvenile will not face a detention hearing, any juvenile an intake worker wants to have held in custody will have such a hearing.[27]

Once an intake worker has decided that a juvenile should be held in custody before trial, then the juvenile court must review the intake worker's decision at a hearing within 48 hours, excluding weekends and holidays.[28] A judge will allow the detention of a juvenile *only* where it is necessary to:

i) insure the presence of the juvenile at trial;
ii) provide physical care for the juvenile because the parent(s) are unable or unwilling to supervise or care for him/her;
iii) prevent the juvenile from harming or threatening any witness or other person; or
iv) prevent the juvenile from being harmed by someone else.[29]

Unless the court finds that continued detention is necessary to meet one of the above purposes, then it must order the juvenile to be released.

If detention of the juvenile is approved, it must be in the least restrictive residential setting that will serve the purpose of the detention.[30]

b. ***Bind-over Hearing*** - This is another hearing most juveniles will not have to face, for only the most serious crimes call for its use. The purpose of a bind-over hearing is to determine if a juvenile should be tried as an adult in Superior Court instead of as a juvenile in the juvenile court. When a juvenile is charged with murder or some other serious crime, the prosecuting attorney may request the juvenile court to continue the case for further investigation and a bind-over hearing. If these requests are granted, the judge will tell the juvenile and the juvenile's parent(s) of the possible consequences of a bind-over hearing, such as commitment to an adult penal institution upon conviction.[31]

At the bind-over hearing the juvenile court will consider the following factors in deciding whether or not the juvenile should be tried as an adult in Superior Court:

i) the record and previous history of the juvenile;
ii) whether the offense was committed in a violent manner; and
iii) whether the juvenile's emotional attitude and pattern of living indicate that the juvenile court's actions will not be able to deter the juvenile's future criminal behavior.[32]

The juvenile court *will* bind a juvenile over to Superior Court if, after consideration of the factors above, it finds:

i) there is probable cause to believe that the juvenile committed the serious crime he/she is charged with;
ii) the maturity of the juvenile indicates that he/she would be more appropriately prosecuted as if he/she were an adult; and
iii) the seriousness of the alleged crime indicates that an adult jail is necessary to confine the juvenile for the protection of the community.[33]

The juvenile court must put its findings in writing before it can bind a juvenile over to the Superior Court.[34]

c. ***Adjudicatory Hearing*** - If the juvenile is not tried as an adult, the juvenile court determines whether or not the juvenile committed the crime he/she is charged with. This is done at an adjudicatory hearing.

At this hearing the juvenile court follows the same procedures a court would in an adult trial with one exception — the juvenile does not have the right to a jury.[35] Other than this, the prosecution and defense attorneys may present witnesses and evidence in behalf of their cases just as they would in an adult trial.

One other thing to keep in mind is that the adjudicatory hearing, and its record, are open to the public whenever the juvenile is charged with something more than a misdemeanor.[36]

d. ***Dispositional Hearing*** - If the juvenile court finds that a juvenile has committed a juvenile crime, it will hold a dispositional hearing to determine which type of disposition will best serve the needs of the juvenile and the community. Most likely this hearing will immediately follow the adjudicatory hearing, but the court can continue the hearing until a later date within 30 days for the purpose of receiving reports or other evidence on the disposition of the case. The juvenile court may have the juvenile examined by a physician or psychologist before the dispositional hearing and it may place the juvenile in a hospital or some other suitable facility for this purpose.[37]

The following list presents some of the dispositional alternatives which the juvenile court may impose on the juvenile. The juvenile court may order the juvenile to:

- remain in the parent(s)' custody under such conditions as the court imposes;
- be placed on probation;
- participate in a supervised work or service program as a condition of probation in order to make restitution to

the victim, as long as the work program lasts for no longer than 180 days, does not interfere with the juvenile's education, and is appropriate for the juvenile's age and physical ability;
- be placed in a foster home, group care home, or halfway house;
- pay a fine;
- be unconditionally discharged;
- be given a suspended sentence;
- serve a determined sentence not to exceed 30 days in the juvenile section of the county jail; or
- be committed to the Maine Youth Center.[38]

The juvenile court cannot commit the juvenile to a secure institution, such as the Maine Youth Center, unless it finds that this type of confinement is necessary for the protection of the public because:

i) there is undue risk that during the period of suspended sentence or probation the juvenile will commit another crime; or

ii) the juvenile is in need of correctional treatment that commitment to a secure institution will provide most effectively; or

iii) a lesser sentence will depreciate the seriousness of the juvenile's conduct.[39]

In making its decision the juvenile court may use the following considerations to weigh *against* committing the juvenile to a secure institution:

i) the juvenile's conduct neither caused nor threatened serious harm;

ii) the juvenile did not think his/her conduct would cause or threaten serious harm;

iii) the juvenile acted under strong provocation;

iv) there were substantial grounds tending to excuse or justify the juvenile's conduct;

v) the victim of the juvenile's conduct induced or aided its commission;

vi) the juvenile has agreed to make restitution to the victim;

vii) the juvenile has not been convicted of a juvenile crime before, or the juvenile has lead a law-abiding life for quite a while before the present infraction;

viii) the juvenile's conduct was the result of circumstances not likely to occur again;

ix) the character and attitude of the juvenile indicate that the juvenile is unlikely to commit another juvenile crime;

x) the juvenile is likely to respond affirmatively to probation;

xi) the confinement of the juvenile would entail excessive hardship to himself or to the dependents of the juvenile.[40]

The juvenile, the parent(s), or the juvenile's attorney should inform the judge of any of the applicable items above whenever there is a possibility the juvenile court is considering confinement of the juvenile in a secure institution.

Any disposition made in a juvenile case by the juvenile court, other than unconditional discharge, must be reviewed every 12 months by the Department of Mental Health and Corrections or the Department of Human Services, until the juvenile is discharged. A written report of this review must be sent to the juvenile and his/her parent(s).[41] The contents of this review are given in the Parent(s)' Legal Rights section of this booklet.

5. **Probation** - The role of the probation officer in dealing with a juvenile, referred to him/her by the juvenile court, has been explained earlier in this booklet.

The term probation refers to a juvenile's legal status. The juvenile court may create this status only after it has found the juvenile to have committed a juvenile crime. Probation usually allows a juvenile to remain at home while reporting regularly to a probation officer. The probation officer, who must explain the conditions of probation to the juvenile, monitors the juvenile's behavior and determines whether or not the juvenile is abiding by the terms of probation. The juvenile can be returned to juvenile court for a violation of any general or specific condition of probation.[42]

6. **Maine Youth Center** - This is Maine's secure institution for juvenile offenders, both male and female, and it is located in South Portland. The Center has educational and recreational facilities for its residents, and only those juveniles who are deemed major security threats are kept in regularly locked quarters. Trained counselors, along with teachers and medical personnel, staff the Center which has a capacity for about 250 juveniles.

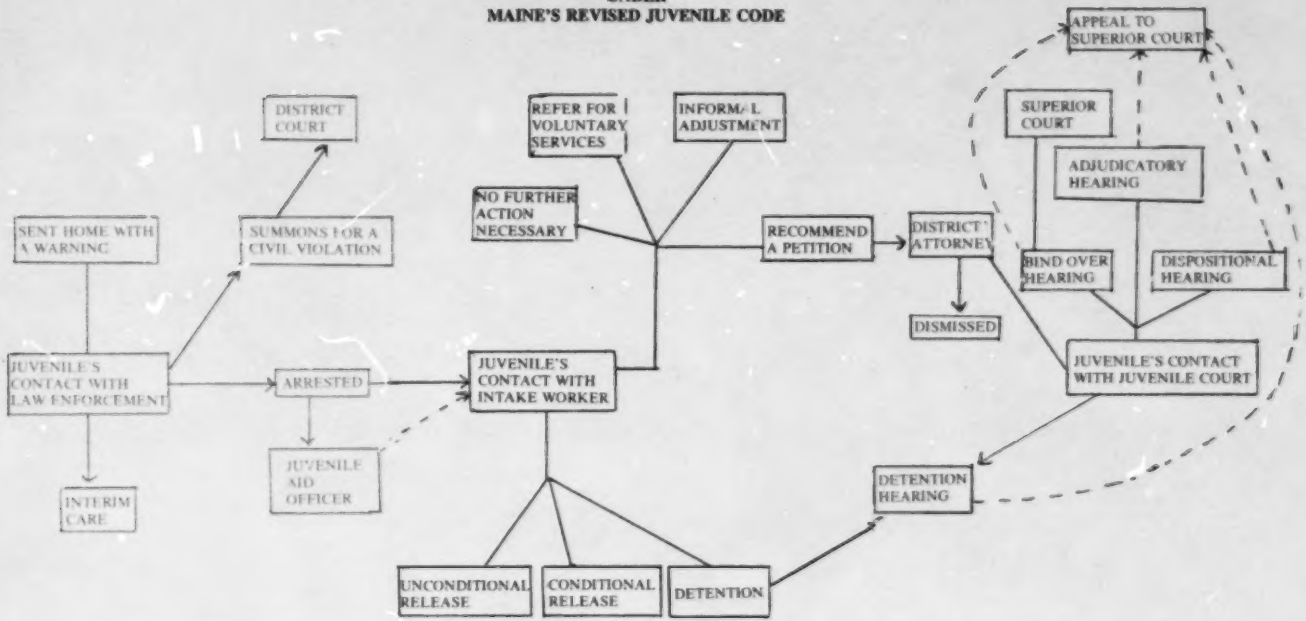
When the juvenile court sentences a juvenile to the Maine Youth Center, the sentence is usually for an indeterminate period of time. In many cases, the Center enters into a behavioral contract with the sentenced juvenile, which says, essentially, that if the juvenile stays out of trouble while at the Center, then he/she will be released after 6 months. Regardless of this contract, a juvenile's commitment cannot extend beyond

the 18th birthday unless the court expressly extends the commitment. However, the court cannot extend a juvenile's commitment to the Center beyond the juvenile's 21st birthday.[43]

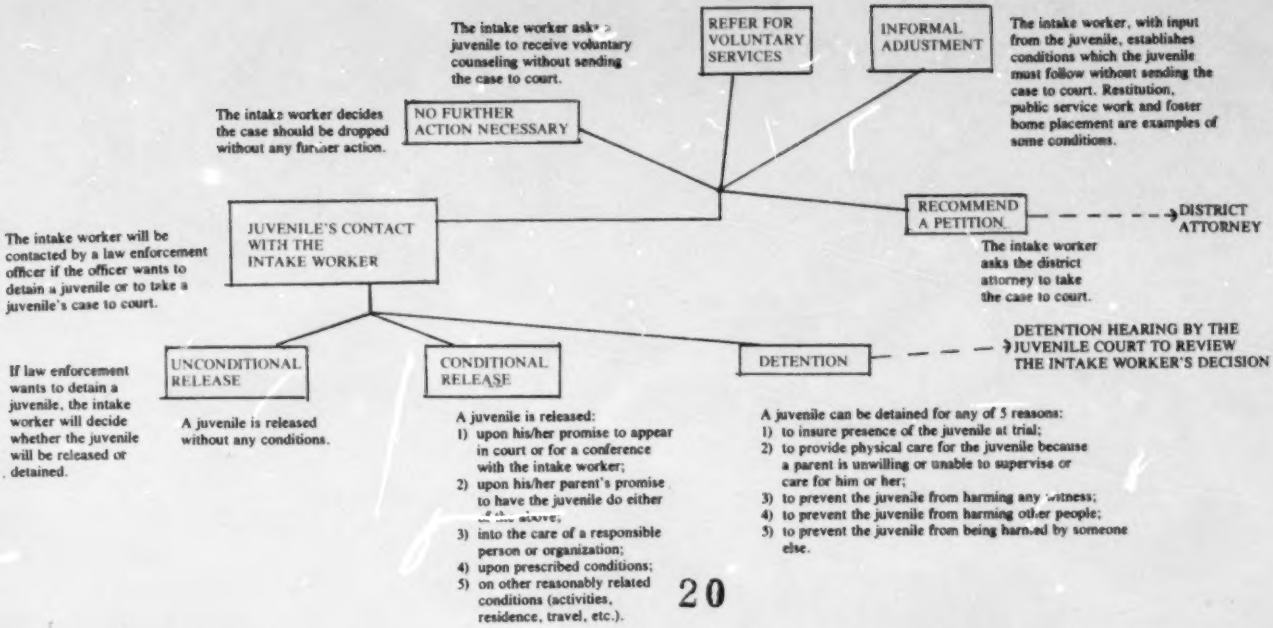
III. How do these people and terms work together to form Maine's Juvenile Justice System?

A. The following four pages present Maine's juvenile justice system in the form of a flow chart. The first page contains a chart which portrays an overview of the entire system. In the next three charts, the overview is broken down into three sections: law enforcement, intake worker and juvenile court. These parts of the system are explained in detail so that the overview in the first chart can be understood more fully.

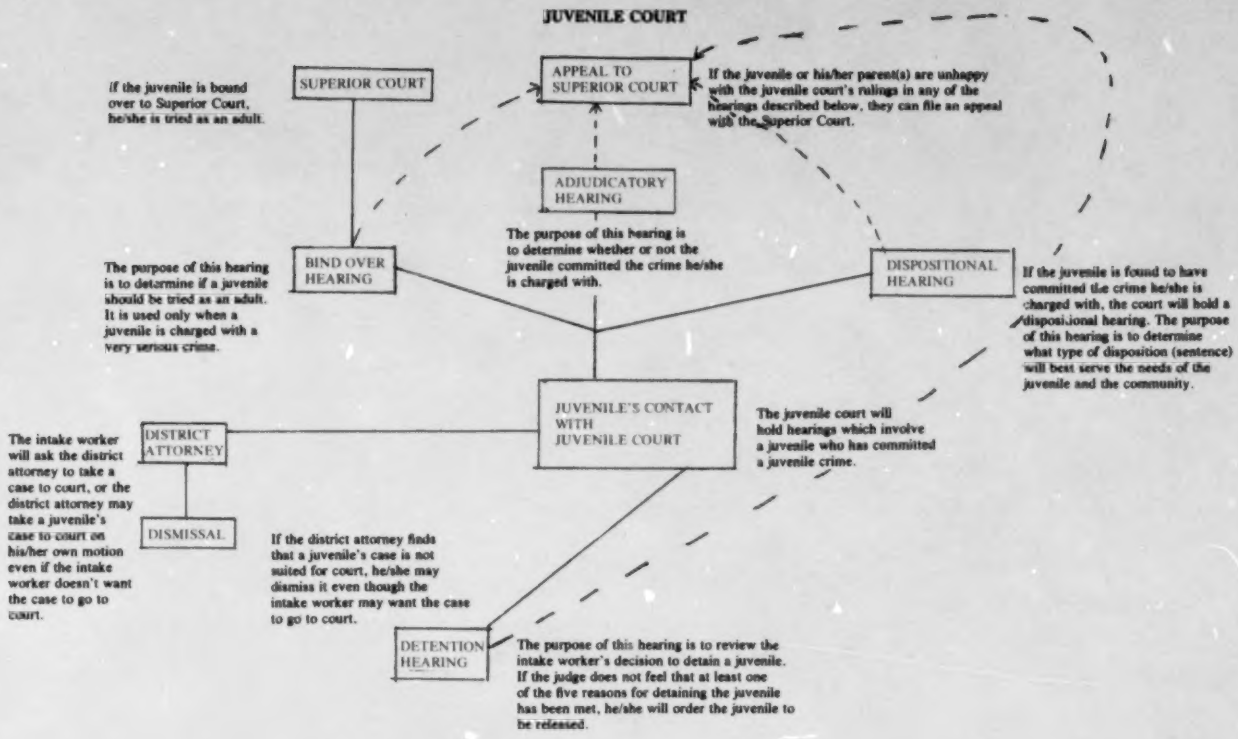
MAINE'S JUVENILE JUSTICE SYSTEM
UNDER
MAINE'S REVISED JUVENILE CODE



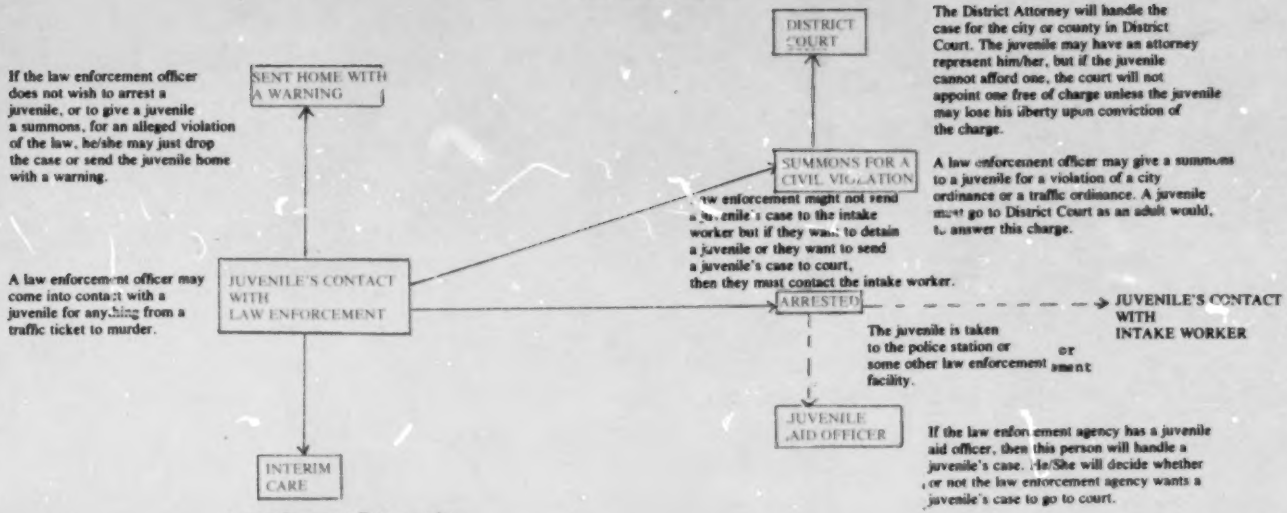
INTAKE WORKER


The intake worker asks a juvenile to receive voluntary counseling without sending the case to court.
REFER FOR VOLUNTARY SERVICES
INFORMAL ADJUSTMENT
The intake worker, with input from the juvenile, establishes conditions which the juvenile must follow without sending the case to court. Restitution, public service work and foster home placement are examples of some conditions.
The intake worker decides the case should be dropped without any further action.
NO FURTHER ACTION NECESSARY
RECOMMEND A PETITION
DISTRICT ATTORNEY
The intake worker asks the district attorney to take the case to court.
The intake worker will be contacted by a law enforcement officer if the officer wants to detain a juvenile or to take a juvenile's case to court.
JUVENILE'S CONTACT WITH THE INTAKE WORKER
If law enforcement wants to detain a juvenile, the intake worker will decide whether the juvenile will be released or detained.
UNCONDITIONAL RELEASE
A juvenile is released without any conditions.
CONDITIONAL RELEASE
A juvenile is released:
1) upon his/her promise to appear in court or for a conference with the intake worker;
2) upon his/her parent's promise to have the juvenile do either of the above;
3) into the care of a responsible person or organization;
4) upon prescribed conditions;
5) on other reasonably related conditions (activities, residence, travel, etc.).
DETENTION
DETENTION HEARING BY THE JUVENILE COURT TO REVIEW THE INTAKE WORKER'S DECISION
A juvenile can be detained for any of 5 reasons:
1) to insure presence of the juvenile at trial;
2) to provide physical care for the juvenile because a parent is unwilling or unable to supervise or care for him or her;
3) to prevent the juvenile from harming any witness;
4) to prevent the juvenile from harming other people;
5) to prevent the juvenile from being harmed by someone else.

JUVENILE COURT


SUPERIOR COURT
If the juvenile is bound over to Superior Court, he/she is tried as an adult.
APPEAL TO SUPERIOR COURT
If the juvenile or his/her parent(s) are unhappy with the juvenile court's rulings in any of the hearings described below, they can file an appeal with the Superior Court.
ADJUDICATORY HEARING
The purpose of this hearing is to determine whether or not the juvenile committed the crime he/she is charged with.
BIND OVER HEARING
The purpose of this hearing is to determine if a juvenile should be tried as an adult. It is used only when a juvenile is charged with a very serious crime.
DISPOSITIONAL HEARING
If the juvenile is found to have committed the crime he/she is charged with, the court will hold a dispositional hearing. The purpose of this hearing is to determine what type of disposition (sentence) will best serve the needs of the juvenile and the community.
JUVENILE'S CONTACT WITH JUVENILE COURT
The juvenile court will hold hearings which involve a juvenile who has committed a juvenile crime.
DISTRICT ATTORNEY
The intake worker will ask the district attorney to take a case to court, or the district attorney may take a juvenile's case to court on his/her own motion even if the intake worker doesn't want the case to go to court.
DISMISSAL
If the district attorney finds that a juvenile's case is not suited for court, he/she may dismiss it even though the intake worker may want the case to go to court.
DETENTION HEARING
The purpose of this hearing is to review the intake worker's decision to detain a juvenile. If the judge does not feel that at least one of the five reasons for detaining the juvenile has been met, he/she will order the juvenile to be released.

LAW ENFORCEMENT


DISTRICT COURT
The District Attorney will handle the case for the city or county in District Court. The juvenile may have an attorney represent him/her, but if the juvenile cannot afford one, the court will not appoint one free of charge unless the juvenile may lose his liberty upon conviction of the charge.
If the law enforcement officer does not wish to arrest a juvenile, or to give a juvenile a summons, for an alleged violation of the law, he/she may just drop the case or send the juvenile home with a warning.
SENT HOME WITH A WARNING
SUMMONS FOR A CIVIL VIOLATION
A law enforcement officer may give a summons to a juvenile for a violation of a city ordinance or a traffic ordinance. A juvenile must go to District Court as an adult would, to answer this charge.
Law enforcement might not send a juvenile's case to the intake worker but if they want to detain a juvenile or they want to send a juvenile's case to court, then they must contact the intake worker.
A law enforcement officer may come into contact with a juvenile for anything from a traffic ticket to murder.
JUVENILE'S CONTACT WITH LAW ENFORCEMENT
ARRESTED
JUVENILE'S CONTACT WITH INTAKE WORKER
The juvenile is taken to the police station or some other law enforcement facility.
or
JUVENILE AID OFFICER
If the law enforcement agency has a juvenile aid officer, then this person will handle a juvenile's case. He/She will decide whether or not the law enforcement agency wants a juvenile's case to go to court.
INTERIM CARE
A law enforcement officer may take a juvenile into temporary custody whenever he/she reasonably believes that the juvenile is abandoned, lost, endangered by his/her surroundings, or is a runaway. The intake worker must be notified after a juvenile is picked up for any of these reasons. The intake worker will tell the officer which shelter care facility to take the juvenile to. The juvenile can be held involuntarily for only six hours.

B. A WRITTEN EXAMPLE OF SOME POSSIBILITIES IN A TYPICAL CASE

In order to clarify the relationship of the flow chart to the people and terms discussed earlier, it will be helpful to take a look at what would happen in an actual case. The following example of a breaking and entering case is particularly useful because it represents a typical, though serious, juvenile crime. Certainly not all cases are as clear cut as this fictional one, but simplification will help to illustrate how the system works.

Let's say that Jean and Tommy Smith, brother and sister at ages 15 and 16, respectively, are caught red-handed by a police officer in the act of breaking into a vacated summer cottage.

What happens next?

At the point of contact, the police officer has a number of options to choose from. The officer can: let Jean and Tommy go with a warning; take them home to their parent(s); or, arrest them and take them to the station. Depending on the circumstances, the police officer might do any of the three, but, since breaking into a house is a serious violation of the law, most likely the youths will be arrested and taken to the station. The police officer will turn the youths over to a juvenile aid officer at the station if the department has one. If the department does not have a juvenile aid officer, then the police officer must decide what to do with Jean and Tommy.

Well, juvenile aid officer or not, how is it decided what will be done with the case?

First of all, no matter who handles the case, this person will pay very close attention to the youths' attitudes. If the youths are obviously sorry for what they have done, then there is a good chance the police may try to keep the case out of court. However, attitudes, though important, are not the only thing the police will consider. The police will also look at Jean's and Tommy's records. If they have not had previous violations, then their case probably will not go to court. If the youths have lengthy records, then much may depend on the seriousness of the past infractions.

If the police decide not to send the case to court, then the juvenile aid officer or other officer in charge of the case will probably ask Jean and Tommy to do some voluntary task. For example, the juvenile aid officer may ask the youths to do some sort of public service work.

The object of this would be to teach Jean and Tommy the value of personal property and, at the same time, appease the homeowner who otherwise might want the case to go to court. The youths' parent(s) would have to agree to any voluntary work program.

Let's say, for the sake of discussion, that Jean and Tommy have extensive criminal records, and that the police decide they want this case sent to court. First of all, even if it was done at the summer

cottage, the police will read the youths their constitutional rights, such as the right to remain silent, and the right to an attorney. Next, the police will take the youths' fingerprints and photographs. After this, if it has not been done already, the police will call the youths' parent(s), and have them come to the station. The police will also call the intake worker once they have decided that they want Jean and Tommy's case to go to court, or if they want to hold the youths in custody instead of releasing them to their parent(s).

The intake worker may or may not have to go to the police station. Most likely the police will just tell the youths and their parent(s) that they will have to see the intake worker, who will be in touch with them, and then let the youths go home in the custody of their parent(s). But, if the police not only want to send the youths' case to court but also to keep the youths in custody, then the intake worker will probably come to the police station unless it is late at night. If it is late at night, the police will contact the intake worker who is on duty for the entire state. This intake worker will make the decision over the phone as to whether or not the police should detain the youths. If it is during the day, the police will contact the area intake worker who will come to the police station to determine whether or not the police should detain the youths.

If the intake worker feels that Jean and Tommy should be held in detention and not released to their parent(s)' custody, then the juvenile court would have to hold a detention hearing within 48 hours, excluding Saturday, Sunday and legal holidays, to review the intake worker's decision. The likelihood of detention being ordered in this case would be small as long as Jean and Tommy's parent(s) are willing to take custody of the youths, and there is an agreement that they and the youths will come to the intake worker's office for a conference. This conference would probably be held within the next day or two. The intake worker would also send a notice of this conference to the youths and their parent(s) through the mail.

Let's say that since Jean and Tommy are sister and brother, the intake worker decides to meet with them together, along with their parent(s). At this initial conference, the intake worker will: inform the youths and their parent(s) of their constitutional rights; tell them that nothing the youths say to the intake worker can be used against them incourt; and then ask Jean and Tommy if they broke into the summer home. This question is asked because, if there is any doubt that the youths did break in, then the case must go to court. The intake worker will also ask the youths and their parent(s) some personal questions about such things as what type of home environment exists, the parent(s)' income, and what type of activities the youths are involved in both in and out of school.

The first interview is very important because this is when the intake worker will probably decide whether or not to send the case to

court. Now remember, both Jean and Tommy have bad records, and the police want their case to go to court. The intake worker's impression of Jean's and Tommy's attitudes and their behavior during this interview is crucial to what will be done with the case. If the youths are uncooperative and show no interest in talking things over with the intake worker, then the intake worker will probably send the case to court. The parent(s) also play an important role at this stage of the proceedings. If they show that they are interested in their children's futures, then the intake worker will certainly take this into account in making a decision. In the end, if all parties involved show genuine concern about what the youths have done, and what will happen to them, then the intake worker will surely do everything possible to keep the case out of court.

If the intake worker keeps the case out of court, then some sort of informal adjustment for Jean and Tommy will be arranged. The two youths and their parent(s) must sign an agreement with the intake worker as to the terms for the informal adjustment, which may be anything from counseling to some sort of public service work. Whatever informal adjustment the intake worker sets up for Jean and Tommy it will be designed to meet their particular personal needs and the needs of the community. As long as they live up to the terms of the informal adjustment, and the district attorney does not want the case to go to court, the intake worker will keep their case out of court.

To cover all the possibilities in this case, let's say that either because the intake worker asks the district attorney to take Jean and Tommy's case to court, or because the police or the summer home owner ask the district attorney to take the case to court, that, in fact, the case does go to court.

What happens next?

Well, first of all, the intake worker is no longer involved. The district attorney or one of his assistants will handle the case now. The youths and their parent(s) will receive a summons which will inform them what Jean and Tommy are charged with, which will probably be burglary, and that they must appear in juvenile court at a certain time and place to answer the charge. At this first court appearance, the judge will read Jean, Tommy and their parent(s) their constitutional rights. The judge will ask the youths whether they want to admit what they are charged with, or whether they want to deny the charge and take the case to trial. Let's say that Jean and Tommy's parent(s), who are too poor to afford an attorney, ask the judge to appoint an attorney for their children before they decide whether to admit or deny the charge. The judge will then appoint an attorney free of charge for the youths, and will continue the case for trial until a later date, which will probably be about a month later.

Jean and Tommy's attorney will talk to them and to their parent(s). He/She will probably talk to the district attorney and will

also read the police report to find out exactly what the nature of the charge is. After this preliminary investigation, the attorney may recommend that the youths should admit to the charge at their next appearance before the judge if the burglary charge can be reduced to criminal trespass, which is a lesser offense. The attorney will talk to the youths and their parent(s) about this decision and inform them of the possible consequences of admitting to the charge of either burglary or criminal trespass. For instance, Jean and Tommy will be told that they could be committed to the Maine Youth Center for either violation. If Jean, Tommy and their parent(s) accept their attorney's suggestions, the next thing the attorney will discuss is recommendations for the judge as to what type of disposition (sentence) would best serve Jean's and Tommy's needs and the needs of the community. He/She may include recommendations for public service work, probation, counseling, or a number of other things. At some time the defense attorney will probably talk to the district attorney about these recommendations to see if the district attorney will agree to them and to reducing the charge from burglary to criminal trespass in return for the youths admitting the charge of criminal trespass.

Let's say the district attorney agrees to the proposal from Jean and Tommy's attorney.

The next appearance for Jean and Tommy before the judge is the adjudicatory hearing. At this hearing, if they follow their attorney's advice, they will admit the criminal trespass charge. The judge will make sure that this admission is voluntary, and that the youths realize they are waiving their right to a trial. The next thing the judge will do is set a time for a dispositional hearing which most likely will take place immediately following the adjudicatory hearing. At this hearing the judge will decide what type of disposition the youths will receive. The judge will listen to the recommendations of the probation officer, the prosecutor, and the defense attorney before making a decision. Of course, Jean and Tommy's attorney will be free to question the probation officer about his/her recommendation.

Since Jean and Tommy have been in trouble before, the judge might send either or both of them to the Maine Youth Center. But, since the district attorney and Jean and Tommy's attorney are in agreement as to what type of disposition (sentence) the youths should receive, the judge will probably go along with their recommendations, which would probably be some form of probation.

For the sake of discussion, let's say that the judge commits Jean and Tommy to a foster care home, and the youths, along with their parent(s), are very upset by this court order. They may have their attorney file an appeal for them with the Superior Court. This appeal must be made within five days after the dispositional hearing. The Superior Court may affirm, amend, or reverse the juvenile court's order. If the youths or their parent(s) are not satisfied with the

Superior Court's decision, then they can appeal that decision to the Maine Supreme Court on matters of law. This appeal process may be very slow but most likely the youths will be able to remain with their parent(s) during it.

Jean and Tommy's attorney should be reminding each court that he deals with that the goal of Maine's juvenile justice system is to secure uniform treatment for all juveniles and to secure for each juvenile, preferably in his or her own home,the care and guidance which will best serve his or her welfare and the interest of society. This may sound very philosophical, but it is also the law, as written by the Maine legislature in the first section of the Maine Juvenile Code.

Certainly, all aspects of the juvenile justice system have not been covered by outlining the events and possibilities in Jean and Tommy's case. Hopefully, though, this case study has given you a general idea of how the system works.

IV. A checklist of constitutional and other rights of the juvenile and the parent.

It is very important that you, as a juvenile or a parent of one, know your legal rights, for this is the only way to know whether the people involved in the system have dealt fairly with you. Certainly, many people feel that legal rights are very important for they are the guardians of freedom which protect all of us from harrassment and mistreatment by the government. You should never be afraid to claim any of your legal rights.

You should read the following checklist of legal rights very carefully. The checklist does not contain every legal right which you, as a juvenile or a parent of one, may have, nor do the explanations of the rights listed exhaust their potential meanings. But, the checklist will provide you with a basic idea of how you should be treated by the juvenile justice system.

A. THE JUVENILE'S RIGHTS

Constitutional Rights:

1. **4th Amendment (Search & Seizure)** - As with most other constitutional rights, a juvenile has the same fourth amendment rights as an adult. The 4th amendment protects all citizens from unreasonable searches and seizures by the government. Basically, this means that a law enforcement officer can search a juvenile only: a) with a warrant; b) incident to arrest; or c) with the juvenile's consent. An arrest, and a search in connection with it, are lawful only when a law enforcement officer has probable cause to believe that the juvenile has committed a crime.

   A juvenile's fourth amendment rights are also applicable to the home and to automobiles. Although in some instances a juvenile may not have as high an expectation of privacy as an adult, this would not necessarily make a search or seizure any less reasonable when applied to him/her.

2. **5th Amendment (Self-incrimination)** - The fifth amendment guarantees that a citizen shall not have to testify against oneself. The U.S. Supreme Court has extended this constitutional right from the courtroom to the street. If a law enforcement officer arrests a juvenile, and the officer wants to use what the juvenile says to him/her in court, then the officer must first give the juvenile certain warnings. The officer must tell the juvenile that: a) he/she has the right to remain silent; b) anything he/she says can be used against him/her in court; c) he/she has the right to a lawyer, and if he/she cannot afford one, the court will appoint one free of charge. The law enforcement officer must give these warnings in such a way that the juvenile understands them. Any statement the juvenile makes to the officer after these warnings must be voluntary or else it cannot be used in court. Maine law says that statements made by a juvenile to an intake worker cannot be used in court against the juvenile.

3. **6th Amendment (Right to an Attorney)** - The sixth amendment provides that all citizens shall have the right to an attorney whenever their personal freedom is at stake. If a person cannot afford an attorney, the court will appoint one free of charge.

   A juvenile has the right to an attorney at every stage of the court proceedings, including all of the various hearings and appeals talked about earlier in this booklet. At the juvenile's first court appearance, the judge will inform the juvenile and his/her parent(s) of the juvenile's sixth amendment rights.

4. **Miscellaneous Constitutional Rights** - The juvenile has a constitutional right to: a) a fast and speedy trial; b) notice of the

charges against him/her, and the place and time of the hearing on these charges; c) confront any witnesses the government uses against him/her; and d) have the elements of the juvenile crime proved beyond a reasonable doubt.

Non-constitutional Rights:

1. **Detention of a juvenile** - a juvenile, who is held in custody by law enforcement officers, must be held in the least restrictive residential setting appropriate to the particular reasons for his/her detention.[44]

   A juvenile can be held in a jail or some other secure facility used for adults, *only* when that facility contains a separate section for juveniles. The juvenile must not have any regular contact with adult detainees or inmates at this facility, and there must be an adequate staff to monitor and supervise the juvenile's activities at all times. Any facility used to detain juveniles must be approved by the Department of Mental Health and Corrections.[45]
2. **Six month limit on informal adjustment** - An informal adjustment cannot last longer than six months.[46]
3. **Court review of a juvenile's probation** - As with adults, a juvenile or his/her probation officer can ask the juvenile court to modify or terminate the juvenile's probation.[47] The court may grant the request if: a) the probation creates an unreasonable burden on the juvenile, such as if it interferes with the juvenile's job; or b) the juvenile behaves himself/herself over a period of time during the probation.[48]
4. **Juvenile Court Adjudication is NOT a Conviction of a Crime** - A juvenile court's finding that a juvenile has committed a juvenile crime is not deemed a conviction of a crime.[49] Therefore, a person can honestly answer *NO* to any question on a job application, or other form, which asks if he/she has ever been convicted of a crime. Of course, this assumes that the *only* crime a person has been found by a court to have committed is a juvenile crime.
5. **Appeal of Juvenile Court Rulings** - A juvenile can appeal any final order the juvenile court may make in his or her case to the Superior Court.[50] A juvenile can appeal the Superior Court's ruling to the Maine Supreme Court for the purpose of raising a question of law, but not for the purpose of raising a question of fact.[51]

   If a juvenile intends to appeal a court order, then it must be done within five days after the order is entered.[52] An attorney will be appointed free of charge for the juvenile if he/she cannot afford one for the appeal process.[53]

6. **Court Review of a Juvenile's transfer from One Facility to Another** - If the Department of Mental Health and Corrections transfers a juvenile from a less restrictive facility to a more secure facility, then the juvenile court which ordered the juvenile's initial placement, must review the action within 48 hours, excluding weekends and holidays.[54]

   The juvenile court will *NOT* uphold the juvenile's transfer unless it finds that the transfer is necessary to: a) protect the juvenile; or, b) protect the community. The juvenile court must also find that there is no other less restrictive facility which will accomplish one of these two objectives.[55]

   The Department of Mental Health and Corrections can never transfer a juvenile to an adult penal institution without court approval for such a transfer.[56]

7. **Independent Review of a Juvenile's Disposition** - If a juvenile has been placed on probation or given any disposition other than unconditional discharge, by the juvenile court, then this disposition must be reviewed at least once a year. The review will be written by a representative of the Department of Mental Health and Corrections, or the Department of Human Services, depending on which department handles the juvenile's case.[57]

   The purpose of the review is to insure that the juvenile receives the treatment which will best serve his/her individual needs and the needs of the community. The contents of the review are described in the *Parent(s)' Legal Rights* section of the booklet.

8. **Statute of Limitations** - The statute of limitations for bringing criminal charges against a juvenile is usually the same as it is for adults. For example, there is no time limit as to when a person, adult or juvenile, can be charged with murder. But, for certain juvenile crimes, such as possession of a useable amount of marijuana or illegal possession of liquor, the state must prosecute the juvenile within a year after the crime was committed.[58]

   A juvenile, through an attorney, parent(s), or himself/herself, can ask the juvenile court to dismiss a petition against him/her, or the juvenile court can dismiss the petition on its own without being asked to do so, if the petition is not filed within six months from the date the juvenile was referred to the intake worker.[59]

   The district attorney may prevent a petition from being dismissed by asking the juvenile court for an extension of time in which to file the petition, and by giving good reasons why the extension of time is needed. If good reasons are given by the district attorney, the juvenile court may extend the period of time in which to bring the petition to any length as long as it

is within the statute of limitations for the particular offense charged in the petition.[60]

9. **Six Hour Limit on Involuntary Custody of a Juvenile in Interim Care** - The police cannot hold a juvenile involuntarily for more than six hours after the juvenile has been taken into interim care.[61] A juvenile has this right when being held involuntarily by police for something other than criminal conduct. This right can be better understood by reading the section on ***Interim Care/Runaways***.
10. **Obtaining Legal Independence from Parent(s)** - The Maine Juvenile Code uses the term *emancipation* to describe the release of a juvenile from the legal control of his/her parent(s).[62]

    If a juvenile is sixteen or older and refuses to return home, and the parent(s) will not allow the juvenile to remain away from home, then the juvenile court will appoint an attorney for the juvenile to file a petition in the District Court for emancipation.[63]

    The District Court will grant the juvenile emancipation if it finds that the juvenile is mature enough to assume responsibility for his/her own care, and that assuming this responsibility is in the juvenile's best interests. Before the court grants emancipation to the juvenile, it must review and approve the juvenile's plans for room, board, health care, and education, vocational training or employment. The plan must identify any community resources and agencies necessary to assist in the juvenile's emancipated life and it must demonstrate that these agencies have agreed to provide such support.[64]

    If the court denies the petition for emancipation, it may recommend that the Department of Human Services provide continued services and counseling to the family.[65]

B. PARENT(S)' LEGAL RIGHTS

In most instances you cannot claim that your *own* constitutional rights have been violated when, in actuality, it is your child's constitutional rights which have been violated. For example, if your child has been the subject of an illegal search by police, then he/she is the only person who can claim that his/her 4th amendment rights have been violated. Of course, you can and should make sure that your child's constitutional rights are respected by the police and others, and this can be done by talking to an attorney.

This is not to say that you don't have any rights when your child has had a run-in with the law. Here is a list of your more important legal rights.

1. **Timely notification of the parent after his/her child has been taken into custody** - When a juvenile has been taken into custody by the police, they or the intake worker must notify the youth's

parent(s) as quickly as possible and tell them where the youth is being held. The parent(s) must be given the name and the telephone number of the intake worker who is handling the case. If the juvenile has been placed in a detention facility, then the parent(s) must be told where and when the detention hearing will be held. The detention hearing must be held within 48 hours, excluding weekends and holidays.[66]

2. **A summons for the parent 48 hours before his/her child's adjudicatory hearing** - A summons, which is a notice of the charges against a juvenile, must be served on the parent(s) and his/her child at least two days before the adjudicatory hearing. The parent(s) and the child may waive this service of summons, but, even if there is a waiver, a copy of the summons can be obtained upon demand or when they appear in court.[67]
3. **Appeal of a juvenile court order by the parent even if his/her child does not want to appeal** - A parent can appeal a juvenile court ruling to Superior Court even if his/her child does not want to appeal the ruling. If unhappy with the Superior Court ruling, the parent(s) can appeal it to the Maine Supreme Court on matters of law. The parent(s) have the right to an attorney at court expense for these appeals if they cannot afford one.[68]
4. **Written report for the parent on the review of his/her child's case** - Any disposition, other than unconditional discharge, made in a juvenile case by the juvenile court must be reviewed at least once every 12 months by the Department of Mental Health and Corrections or the Department of Human Services until the juvenile is discharged. A written report of this review must be sent to the parent(s) of the child. This review shall contain the following information:
    i) a brief description of the services provided for the juvenile, and the results of these services, during the period preceding the review;
    ii) an individual plan for the provision of services to the juvenile during the next period;
    iii) a statement showing that the plan imposes the least restrictive alternatives consistent with adequate care of the juvenile and protection of the community;
    iv) a certification that services are available and will be given to the juvenile.[69]
5. **Grievances by the parent regarding provision of services for his/her child** - The Department of Mental Health and Corrections must provide a fair hearing for review of any grievance a parent may have regarding the services his/her child receives or should receive from the department. Whenever the parent feels that his/her child is denied services that the department should

provide, or that the child is forced to receive services which do not benefit him/her, then the parent should ask for a hearing before the department to review this concern.[70]

V. • Special Cases

So far most of the material in this booklet has dealt with the criminal aspects of Maine's juvenile justice system. Many juveniles have problems which are not of a criminal nature, though, and Maine has laws which deal with some of these problems. Therefore, this section of the booklet will take some non-criminal problems a juvenile may have, and outline the Maine statutes which deal with them.

A. INTERIM CARE/RUNAWAYS - A juvenile, who is a runaway or who needs protection and care, has not committed a crime, and should not be treated as a criminal. Maine's legislature has realized this and it has created a procedure for dealing with juveniles in the two situations mentioned above.

Interim care refers to the status of a juvenile who has been taken into temporary protective custody by a law enforcement officer. A law enforcement officer may take a juvenile into interim care whenever the officer has reasonable grounds to believe that:

a) the juvenile is abandoned, lost or seriously endangered by his/her surroundings, and that immediate removal is necessary for his/her protection; or

b) the juvenile has left the care of parent(s), guardian or legal custodian without consent.[71]

If a police officer takes a juvenile into interim care, this is *not* an arrest.[72] The juvenile's fingerprints cannot be taken; the juvenile cannot be put in jail unless there is no other place available; and, the juvenile is not even supposed to ride in the police car at the same time the car contains an adult under arrest if it is possible.[73] Finally, the juvenile can be held involuntarily for *only* six hours.

When a law enforcement officer takes a juvenile into interim care the officer must notify the intake worker. The intake worker shall designate the shelter care facility where the juvenile will be held. The intake worker, or law enforcement officer in some cases, will notify, as soon as possible, the juvenile's parent(s) or whomever the juvenile lives with and tell that person where the juvenile is being held.[74]

The intake worker will refer the juvenile, who is taken into interim care, only to a shelter care facility which is licensed by the Department of Mental Health and Corrections.[75] Such facilities are usually group homes, foster homes, or half-way houses.

Before a juvenile is released from an interim care shelter, both the youth and his/her parent(s) must agree to the juvenile's return home, and if they do agree, the parent(s) must pay for the juvenile's transportation home.[76] If the juvenile does not want to return home, the intake worker must offer the juvenile continued emergency shelter in a place as close as possible to the parent(s)' home. The intake worker must then refer the juvenile and his/her parent(s) to the Department of Human Services for counseling.[77]

It should be noted that a parent has the right to take custody of his/her child at any time unless the juvenile is 16 years of age or older, in which case, the juvenile may ask the court to declare him/her legally independent of his/her parent(s).[78] This procedure, which is described earlier, is called an emancipation hearing.

If a parent refuses to allow his/her child to return home from an interim care shelter, the intake worker must refer the juvenile to the Department of Human Services, which will determine whether or not the state should file a protective custody petition for the juvenile.[79]

B. PROTECTIVE CUSTODY PROCEEDING - By law, the state may take a child away from his/her parent(s) if the child is under 18 years of age and is living in circumstances which seriously jeopardize the child's welfare or morals.[80]

A number of different people can state proceedings in a protective custody case. If a person from the Department of Human Services, a law enforcement officer, or even three members of the community, believe that a child is living in any of the circumstances just described, they can ask the probate court or the District Court to have a protective custody hearing. Usually, the child will remain in the parent(s)' custody before the hearing, but if

the complainant(s) convince the court that the child is in some sort of immediate danger, the court will order the child to be taken into custody pending the hearing.

Once the complaint is filed, the court will set a time for a hearing. The parent(s) of the child will receive a notice of this hearing and they will have the right to be represented by an attorney. The court will appoint one free of charge if they cannot afford one.

At the hearing, the judge will listen to evidence from both the complainant(s) and the parent(s). The district attorney may represent the complainant(s). After hearing the evidence, if the court determines that the child is living in circumstances which seriously jeopardize his/her welfare, health or morals, the court may authorize the child to be placed in custody of the Department of Human Services or any suitable person. The court may also order the parent(s) to pay for the care of the child, including medical and health expenses, while the child is in the custody of the Department of Human Services, or some suitable person.

The parent(s) may appeal the decision of the probate court or the District Court to the Superior Court if they are unhappy with it.

C. **MENTALLY ILL OR INCAPACITATED JUVENILE** - Maine law defines an incapacitated person as "any person who is impaired by reason of mental retardation to the extent that he/she lacks sufficient understanding or capacity to make, communicate, or implement reasonable decisions concerning his/her person or property."[81]

If at any time during the criminal proceedings of a juvenile's case it appears that the juvenile may be mentally ill or incapacitated, the court will suspend the proceedings and the charges, and will either: a) initiate proceedings for voluntary or involuntary commitment to a mental health institution; or b) order that the juvenile be placed in a suitable facility or program for examination by a psychologist or physician with the costs for this to be paid by the court. If the examination shows that the juvenile is mentally ill or incapacitated to the extent that short or long term hospitalization is required, the court will initiate proceedings for voluntary or involuntary commitment. The court will indefinitely continue the criminal proceedings when the juvenile is involuntarily or voluntarily committed.[82]

If the juvenile is not found to be mentally ill or incapacitated by either the court or the doctor who conducted the examination, then the court will resume the criminal proceedings immediately.[83]

The procedures for voluntary and involuntary commitment are quite simple.

1. **Voluntary Commitment** - A person can voluntarily commit oneself to a mental health institution if, after an examination, the

head of the hospital finds that he/she is suitable for admission. A juvenile must also have the consent of his/her parent(s) and the Commissioner of Mental Health and Corrections before being allowed to enter a mental health institution voluntarily. Any person who commits oneself voluntarily to a mental health institution may also leave voluntarily at any time. However, an involuntary commitment proceeding may be brought against this person by the head of the hospital if he/she believes this is necessary in the interest of the patient and the community.

2. **Involuntary Commitment** - A person can be voluntarily committed to a mental health institution if: a) another person states in a written application that he/she believes this person to be mentally ill, and this person poses a threat to himself/herself or to the public; b) a physician or psychologist examines the person and states in a certificate the same belief as expressed above; and c) a judge reviews the written application and the certification and endorses them. An individual, who is committed involuntarily, cannot leave the mental health institution without the permission of the person who heads it.[84]

C. **TRUANT/DROP-OUT; SUSPENSION/EXPULSION** - The juvenile, who is a truant or who drops out of school, is not committing a crime. The police will not arrest him or her, nor will he/she be sent away to the Maine Youth Center.

However, Maine law requires schools to deal with the truant and the drop-out in certain ways. There are also certain guidelines for suspension and expulsion. The following outline of the law in these areas may be helpful to a juvenile or the parent(s) of one who is involved in these situations.

1. **Truancy** - Maine law defines the habitual truant as a student who is absent from school for ten full days or for any seven consecutive half days of school within any six month period for other than an excusable absence.[85] An excusable absence is:
   - i) personal illness;
   - ii) appointments with health officials that cannot be made outside of the regular school day;
   - iii) observation of a recognized religious holiday;
   - iv) emergency family situations;
   - v) planned absences for personal education purposes which have been approved in advance.[86]

   If a student is habitually absent from school, the principal must provide a full report on this to the superintendent of schools. The report will include the following information about the student if it is available:
   - a) written summations of any counseling sessions with the student;

b) results of any physical examinations;
c) results of any psychological examinations;
d) written summations of any visits to the student's home;
e) written reports from the positive action committee which may have evaluated the student;
f) written summations of faculty discussion;
g) written summations of any efforts made by the school to meet the child's educational needs;
h) recommendations by the principal and faculty to resolve the problem.[87]

After the superintendent receives this information, he/she may try to solve the problem, or can refer the matter to the local school committee. If the school committee gets the case, it will call a meeting to resolve the matter, and either require the youth to go back to school, or waive the compulsory education law if the youth is at least 14. If the parent(s) are unhappy with the school committee's decision, they can appeal it to the Commissioner of Education, who will appoint a fair hearing officer to hear the appeal.[88]

The entire procedure involving the reports, the school committee, and the commissions, can be avoided by the principal of the school at which the youth is enrolled. The principal is authorized by law to excuse the student from school attendance for the purpose of participating in a suitable program of work, work-study, or training as long as the local school committee approves it. The student may not participate in any of these programs unless both the student and his/her parent(s) consent to the program. The student is also supposed to have some input in the formation and selection of the program. A student, who is between 15 and 17, may receive a special work permit from the Labor Department with the permission of the Commissioner of Education as long as the work involved is not hazardous. If the principal will not allow a student to participate in one of the above programs, the student and his/her parent(s) can appeal this decision to the local school committee.[89]

Parent(s) are required by the law to make their children attend school. If a parent is in any way responsible for his/her child being truant, the parent can be punished by a fine of $25.00 or imprisonment for as much as 30 days for *each* time the child is truant.[90]

2. **Dropout** - In October, 1977, a law went into effect which called for the superintendent of each high school in the state to create a positive action committee in his/her school. This committee must come up with a plan of action to deal with the dropout problem in its own school. The committee must evaluate such

things as: 1) the reasons for the dropout problem; 2) the possibility of providing alternative education alternatives to the dropout; 3) the school policies dealing with suspension, expulsion and other forms of disciplinary action; and, 4) attitudes and practices within the school which may intentionally or unintentionally discriminate against students because of economic, sex, racial or ethnic backgrounds. Each committee must submit its plan to the school committee and it must convene at least annually, after submission of the original plan, to make recommendations to the school committee as necessary.[91]

A positive action committee has twelve members: 1 school committee member selected by that committee; 1 school administrator selected by the superintendent; 2 teachers selected by the local teachers' association; 2 parents of students selected by the local parents' organization, or if none exists, by the school committee; 2 enrolled students and 2 recent drop-outs selected by the members of the positive action committee, as already chosen; and finally, 2 residents of the community selected by the members of the positive action committee as already chosen.[92]

3. **Suspension/Expulsion** - The school committee, or director, may authorize the principal or a school to suspend students for up to a maximum of 10 days.

   The school committee or director may expel any obstinately disobedient or disorderly student, after a proper investigation, of the student's behavior, if this is necessary for the peace and usefulness of the school. The student must be admitted again on stisfactory evidence of his/her repentence and amendment.[93]

D. CIVIL VIOLATIONS - A civil violation refers to any violation of the law other than a criminal violation. Cases which involve contracts, negligence, or city ordinances are almost always civil in nature. When a juvenile is charged with a civil violation, he/she is treated the way an adult is. All of the proceedings take place in District or Superior Court, and the juvenile court is not involved at all.

For example, a juvenile, who is charged with violation of a city's loitering ordinance must go to District Court as an adult would. Of course, if the juvenile is taken into custody by the police officer on this civil charge, the juvenile would have to be held in the separate juvenile section of the jail, or an approved shelter facility for juveniles. But other than this, the case would be handled in exactly the same way as an adult's would be.

VI. Appendix

REFERENCES

1. Me. Rev. Stat. Ann. tit. 15 § 3003 (14)
2. Me. Rev. Stat. Ann. tit. 15 § 3101 (2) (d)
3. Me. Rev. Stat. Ann. tit. 15 § 3003 (12)
4. Me. Rev. Stat. Ann. tit. 15 § 3301 (5) (c)
5. Me. Rev. Stat. Ann. tit. 15 § 3203 (1)
6. Me. Rev. Stat. Ann. tit. 15 § 3301 (15) (A), (B)
7. Me. Rev. Stat. Ann. tit. 15 § 3301 (6)
8. Me. Rev. Stat. Ann. tit. 15 § 3501 (5) (A)
9. Me. Rev. Stat. Ann. tit. 15 § 3301 (6)
10. Me. Rev. Stat. Ann. tit. 15 § 3306 (1) (B)
11. Me. Rev. Stat. Ann. tit. 15 § 3203 (5)
12. Me. Rev. Stat. Ann. tit. 15 § 3101 (4) (A)
13. Me. Rev. Stat. Ann. tit. 15 § 3309 (5)
14. Me. Rev. Stat. Ann. tit. 15 § 3314 (1)
15. Me. Rev. Stat. Ann. tit. 15 § 1682 (2)
16. Me. Rev. Stat. Ann. tit. 15 § 1681 (2)
17. Me. Rev. Stat. Ann. tit. 15 § 1682 (5)
18. Me. Rev. Stat. Ann. tit. 15 § 3103 (1) et seq.
19. Me. Rev. Stat. Ann. tit. 15 § 3103 (2)
20. Me. Rev. Stat. Ann. tit. 15 § 3103 (1) (D)
21. Me. Rev. Stat. Ann. tit. 15 § 3301 (5) (B)
22. Me. Rev. Stat. Ann. tit. 15 § 3301 (5) (B) et seq.
23. Me. Rev. Stat. Ann. tit. 15 § 3304 (1)
24. Me. Rev. Stat. Ann. tit. 15 § 3304 (1) (4)
25. Me. Rev. Stat. Ann. tit. 15 § 3304 (2) (5)
26. Me. Rev. Stat. Ann. tit. 15 § 3101 (4) (A)
27. Me. Rev. Stat. Ann. tit. 15 § 3203 (5) (A)
28. Me. Rev. Stat. Ann. tit. 15 § 3203 (2)
29. Me. Rev. Stat. Ann. tit. 15 § 3203 (C) et seq.
30. Me. Rev. Stat. Ann. tit. 15 § 3203 (C)
31. Me. Rev. Stat. Ann. tit. 15 § 3101 (4) (A)
32. Me. Rev. Stat. Ann. tit. 15 § 3101 (4) (D)
33. Me. Rev. Stat. Ann. tit. 15 § 3101 (4) (E)
34. Me. Rev. Stat. Ann. tit. 15 § 3101 (4) (F)
35. Me. Rev. Stat. Ann. tit. 15 § 3307 (1)
36. Me. Rev. Stat. Ann. tit. 15 § 3307 (2) (A), (B)

37. Me. Rev. Stat. Ann. tit. 15 § 3312 et seq.
38. Me. Rev. Stat. Ann. tit. 15 § 3314 et seq.
39. Me. Rev. Stat. Ann. tit. 15 § 3313 (1) et seq.
40. Me. Rev. Stat. Ann. tit. 15 § 3313 (2) et seq.
41. Me. Rev. Stat. Ann. tit. 15 § 3315 (1)
42. Me. Rev. Stat. Ann. tit. 15 § 3002 (23)
43. Me. Rev. Stat. Ann. tit. 15 § 3316 (2) et seq.
44. Me. Rev. Stat. Ann. tit. 15 § 3203 (4) (C)
45. Me. Rev. Stat. Ann. tit. 15 § 3203 (7) (A)
46. Me. Rev. Stat. Ann. tit. 15 § 3301 (5) (B)
47. Me. Rev. Stat. Ann. tit. 15 § 3314 - A
48. Me. Rev. Stat. Ann. tit. 17-A § 1202 et seq.
49. Me. Rev. Stat. Ann. tit. 15 § 3310 (6)
50. Me. Rev. Stat. Ann. tit. 15 § 3406
51. Me. Rev. Stat. Ann. tit. 15 § 3407
52. Me. Rev. Stat. Ann. tit. 15 § 3402 (5)
53. Me. Rev. Stat. Ann. tit. 15 § 3404 (1)
54. Me. Rev. Stat. Ann. tit. 34 § 264 (3) (A)
55. Me. Rev. Stat. Ann. tit. 34 § 264 (3) (B)
56. Me. Rev. Stat. Ann. tit. 34 § 264 (3) (C)
57. Me. Rev. Stat. Ann. tit. 15 § 3315 (1)
58. Me. Rev. Stat. Ann. tit. 15 § 3105 et seq.
59. Me. Rev. Stat. Ann. tit. 15 § 3303
60. Me. Rev. Stat. Ann. tit. 15 § IBID
61. Me. Rev. Stat. Ann. tit. 15 § 3501 (2)
62. Me. Rev. Stat. Ann. tit. 15 § 3003 (6)
63. Me. Rev. Stat. Ann. tit. 15 § 3506 (1)
64. Me. Rev. Stat. Ann. tit. 15 § 3506 (2)
65. Me. Rev. Stat. Ann. tit. 15 § 3506 (3)
66. Me. Rev. Stat. Ann. tit. 15 § 3203 (2) (A)
67. Me. Rev. Stat. Ann. tit. 15 § 3304 et seq.
68. Me. Rev. Stat. Ann. tit. 15 § 3404 (2)
69. Me. Rev. Stat. Ann. tit. 15 § 3315 (2) et seq.
70. Me. Rev. Stat. Ann. tit. 34 § 262 (4)
71. Me. Rev. Stat. Ann. tit. 15 § 3501 (1) et seq.
72. Me. Rev. Stat. Ann. tit. 15 § 3501 (3)
73. Me. Rev. Stat. Ann. tit. 15 § 3501 (7), (9)
74. Me. Rev. Stat. Ann. tit. 15 § 3501 (4), (5)
75. Me. Rev. Stat. Ann. tit. 15 § 3501 (5)
76. Me. Rev. Stat. Ann. tit. 15 § 3503
77. Me. Rev. Stat. Ann. tit. 15 § 3504
78. Me. Rev. Stat. Ann. tit. 15 § IBID
79. Me. Rev. Stat. Ann. tit. 15 § 3505
80. Me. Rev. Stat. Ann. tit. 22 § 3792 (1)
81. Me. Rev. Stat. Ann. tit. 34 § 2616 (1)

82. Me. Rev. Stat. Ann. tit. 15 § 3318 (1) (A), (B)
83. Me. Rev. Stat. Ann. tit. 34 § 2290
84. Me. Rev. Stat. Ann. tit. 34 § 2333
85. Me. Rev. Stat. Ann. tit. 20 § 914 (1)
86. Me. Rev. Stat. Ann. tit. 20 § 911 (2)
87. Me. Rev. Stat. Ann. tit. 20 § 911 (6)
88. Me. Rev. Stat. Ann. tit. 20 § 911 (7)
89. Me. Rev. Stat. Ann. tit. 20 § 911 (10)
90. Me. Rev. Stat. Ann. tit. 20 § 911 (8)
91. Me. Rev. Stat. Ann. tit. 20 § 933 et seq.
92. Me. Rev. Stat. Ann. tit. 20 § IBID
93. Me. Rev. Stat. Ann. tit. 20 § 473 (5)

"The material reported herein was prepared pursuant to Grant No. 489AH70024 with Teacher Corps, U.S. Office of Education, Department of Health, Education & Welfare. Contractors (or grantees) undertaking such projects under Government sponsorship are encouraged to express freely their professional judgment in the conduct of the project. Points of view or opinions stated do not, therefore, represent official Office of Education position or policy."

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UNIVERSITY OF MAINE/ORONO
YOUTH ADVOCACY TEACHER CORPS PROJECT

This five-year project will involve the Old Town junior and senior high schools, a Consortium of Group Homes, the Maine Youth Center, and the community, youth agencies and the University of Maine at Orono. The project's purpose is to:

1. Strengthen the educational opportunities of low income youth, juvenile delinquents and/or youthful offenders in the above sites through the development of a program to attract and prepare educational personnel who provide remedial, basic and secondary education training (including literacy and communication skills) for these students.
2. Strengthen the teacher education program at the University of Maine at Orono through the development of a field based inservice model and a university staff development model.

The major program focus is on the development, implementation and evaluation of:

1. State Interagency Youth Advocacy Program:
   This model is designed to impact the training of educational personnel and the pilot educational systems with which a youthful offender comes in contact in the state of Maine.
2. Interagency Collaboration:
   At a local, regional and state level, emphasis will be on the improvement of delivery of services through public-private cooperation.
3. Inservice Training:
   This will include diagnosis and prescriptive teaching, multicultural education, communication skills training and counseling for disruptive youth.
4. Community Education:
   This will focus on school-community relationships, parenting skill, consumer education for low income families and community based diversionary programs.

Each of the four models will be designed to effect specific and measurable outcomes.